



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 17, 2017, the Department of Commerce (Department) published the preliminary results of the changed circumstances review (CCR) of the antidumping duty order on certain pasta from Italy and preliminarily determined that Francesco Tamma S.p.A. (Tamma) is not the successor-in-interest to Tamma Industrie Alimentare Capitanata S.r.l. (TIAC), the company affiliated with Delverde, S.r.l. (Delverde), which was excluded from the order on pasta from Italy. We received comments from interested parties. Based on our analysis, for the final results, the Department continues to find that Tamma is not the successor-in-interest to TIAC.

DATES: EFFECTIVE [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Joy Zhang, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168.

Background

On July 24, 1996, the Department published in the *Federal Register* the antidumping duty order on pasta from Italy, which included Delverde and its affiliate TIAC (collectively, Delverde/TIAC).¹ Pursuant to a decision by the Court of International Trade, on remand, the Department determined that Delverde/TIAC had a *de minimis* dumping margin and should be excluded from the order on pasta from Italy.² In accordance with a decision from the World Trade Organization (WTO), the United States Trade Representative subsequently directed the Department to revise the all-others rate for the *Pasta Order* to 15.45 percent *ad valorem*.³

In 2014, the Department conducted a CCR of Delverde Industrie Alimentari S.p.A. (Delverde S.p.A.) and found that Delverde S.p.A. was not the successor-in-interest to Delverde based on aspects of the bankruptcy of Delverde, changes in management, changes in supplier relationships, and changes in production facilities.⁴ Thus, the Department found that Delverde S.p.A. was not entitled to the exclusion from the *Pasta Order* that was originally granted to Delverde, a defunct entity.⁵

On July 29, 2016, American Italian Pasta Company, Dakota Growers Pasta Company, and New World Pasta Company (the petitioners) filed a request for the Department to initiate a CCR of Tamma to determine whether Tamma is the successor-in-interest to TIAC, the company

¹ See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 38547 (July 24, 1996) (*Pasta Order*).

² See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Revocation in Part: Certain Pasta from Italy*, 66 FR 65889 (December 21, 2001).

³ See *Implementation of the Findings of the WTO Panel in US--Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261, 25263 (May 4, 2007) (*Pasta Section 129 Implementation Determination*).

⁴ See *Certain Pasta from Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review*, 79 FR 28481 (May 16, 2014); unchanged in *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 79 FR 76339 (September 19, 2014) and accompanying Issues and Decision Memorandum (*Delverde CCR*).

⁵ See *Delverde CCR*.

excluded from the *Pasta Order* that was previously affiliated with the now defunct Delverde.⁶

On September 13, 2016, we initiated a CCR with respect to Tamma.⁷

On March 21, 2017, the Department issued the *Preliminary Results* of this CCR, in which it determined that Tamma is not the successor-in-interest to TIAC, the company in the Delverde/TIAC entity, which was excluded from the *Pasta Order*.⁸

On March 31, 2017, Tamma submitted comments regarding the *Preliminary Results*.⁹

On April 17, 2017, the petitioners submitted their rebuttal brief.¹⁰

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta. The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.¹¹

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this changed circumstances review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the

⁶ See Petitioners' letter titled, "Request for 2015-2016 Administrative Reviews of the Antidumping Duty Order on Certain Pasta from Italy," dated July 29, 2016. This letter requests an administrative review and changed circumstances review of Tamma. On August 11, 2016, the petitioners refiled this review request to clarify the specific company names requested for review.

⁷ See *Certain Pasta from Italy: Initiation of Changed Circumstances Review*, 81 FR 62864 (September 13, 2016) (*Initiation Notice*).

⁸ See *Certain Pasta from Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review*, 82 FR 14501 (March 21, 2017) (*Preliminary Results*) and the accompanying Preliminary Decision Memorandum.

⁹ See Tamma's Case Brief, entitled "Certain Pasta from Italy: Changed Circumstances Review Case Brief of Francesco Tamma S.p.A.," dated March 31, 2017.

¹⁰ See Petitioners' Rebuttal Brief, entitled "Certain Pasta from Italy: Petitioners' Rebuttal Brief for Francesco Tamma S.p.A.," dated April 17, 2017.

¹¹ For a full description of the scope of the order, see Issues and Decision Memorandum.

Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024, of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Changed Circumstances Review

Based on the record evidence and our analysis of the comments received, the Department continues to find that Tamma is not the successor-in-interest to TIAC pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216.¹²

Instructions to U.S. Customs and Border Protection

As a result of this determination, the Department will instruct U.S. Customs and Border Protection to collect estimated antidumping duties for all shipments of subject merchandise produced and/or exported by Tamma and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the *Federal Register* at the 15.45 percent all-others rate established in the antidumping duty investigation, as modified by the section 129 determination.¹³ This cash deposit requirement shall remain in effect until further notice.

Notification to Interested Parties

¹² See Issues and Decision Memorandum.

¹³ See *Pasta Section 129 Implementation Determination*, 72 FR at 25263.

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this final results notice in accordance with sections 751(b) and 777(i) of the Act, and 19 CFR 351.216 and 351.221(c)(3).

Dated: June 1, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

APPENDIX

I. Summary

II. Background

III. Scope of the Order

IV. Discussion of Interested Party Comments

Comment: Whether a Successor-in-Interest CCR Analysis Should Be Based on an Event/Events or on the Totality of the Circumstances on the Record

V. Recommendation

[FR Doc. 2017-11995 Filed: 6/8/2017 8:45 am; Publication Date: 6/9/2017]